

Introduced by Senator McPherson

February 7, 2003

An act to amend ~~Section 221 of~~ Sections 1, 7, 9, 101, 133, 202, 251, 252, 253, and 431 of, to amend the heading of Article 6 (commencing with Section 671 of Chapter 3 of Part 5 of, to add Section 202.5 to, to add Chapter 3.5 (commencing with Section 685) to Part 5 of, to repeal Sections 136, 203, 204, 205, 671, and 673 of, to repeal Chapter 2 (commencing with Section 221) of Part 3 of, and to repeal Article 2 (commencing with Section 471) of Chapter 8 of Part 4 of, the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 149, as amended, McPherson. Monterey Peninsula Water Management District.

Existing

(1) *Existing* law, the Monterey Peninsula Water Management District Law, establishes the Monterey Peninsula Water Management District and provides for its powers and purposes. ~~The district law authorizes the district, by a resolution adopted 140 days before the next general district election, to divide the district into as many divisions as there are elected board members. The district law provides for the election of 5 members and the appointment of 2 members to the district's board of directors. The district law requires the board of the district to call an election for the voters of the district to approve projects proposed to be undertaken by the board. The district law authorizes the board to~~

issue revenue bonds in accordance with certain provisions of law, and subject to approval by district voters.

This bill would change the ~~number of days to 135 for the purposes of that provision~~ title of the law to the Monterey Peninsula Water Board Law. The bill would provide for a 7-person appointed board of elected representatives from each of the cities within the district, appointed by the mayor of each city, and one representative from the unincorporated area. The requirements of the bill to establish an appointed board would impose a state-mandated local program. The bill would provide that each board member has one vote, except that, upon the call and request of any board member present and able to vote, a weighted voting formula would be applied to any vote to be taken by the board.

The bill would repeal the provisions that require an election to be held to approve projects proposed to be undertaken by the board. The bill would authorize each board member to vote in favor of the issuance of revenue bonds, subject to an authorization to do so by his or her appointing power but without voter approval, to pay the costs of constructing facilities for the production, storage, transmission, or treatment of water. The bill would prohibit the voters of the district from petitioning for referendum with regard to the exercise of the revenue bond authority. The bill would become operative on the date on which the Secretary of State notifies the Monterey Peninsula Water Management District that the United States Attorney General has “precleared,” in accordance with a certain federal law, the changes that the bill would make with regard to the manner of selecting board members.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 **SECTION 1.** ~~Section 221 of the Monterey Peninsula Water~~
2

1 *SECTION 1. Section 1 of the Monterey Peninsula Water*
2 *Management District Law (Chapter 527 of the Statutes of 1977)*
3 *is amended to read:*

4 Section 1. This act shall be known and may be cited as the
5 Monterey Peninsula Water ~~Management District~~ Board Law.

6 *SEC. 2. Section 7 of the Monterey Peninsula Water*
7 *Management District Law (Chapter 527 of the Statutes of 1977)*
8 *is amended to read:*

9 Sec. 7. “District” means the Monterey Peninsula Water
10 ~~Management District~~ Board.

11 *SEC. 3. Section 9 of the Monterey Peninsula Water*
12 *Management District Law (Chapter 527 of the Statutes of 1977)*
13 *is amended to read:*

14 Sec. 9. “Board” and “board of directors” means the
15 governing board of directors of the district ~~elected or appointed~~
16 pursuant to ~~Chapter I (commencing with Section 201) of Part 3 of~~
17 ~~this law~~ Section 202.

18 *SEC. 4. Section 101 of the Monterey Peninsula Water*
19 *Management District Law (Chapter 527 of the Statutes of 1977)*
20 *is amended to read:*

21 Sec. 101. There is hereby created a district known and
22 designated as the —“~~Monterey~~ Monterey Peninsula Water
23 ~~Management District~~” Board.

24 *SEC. 5. Section 133 of the Monterey Peninsula Water*
25 *Management District Law (Chapter 527 of the Statutes of 1977)*
26 *is amended to read:*

27 133. The Monterey Peninsula Water ~~Management District~~
28 ~~Board~~ is hereby declared to be and is a body politic and corporate,
29 and as such shall have, among others, the powers enumerated in
30 this law and such other powers as the law may provide.

31 *SEC. 6. Section 136 of the Monterey Peninsula Water*
32 *Management District Law (Chapter 527 of the Statutes of 1977)*
33 *is repealed.*

34 ~~Sec. 136. The provisions of the Uniform District Election~~
35 ~~Law (Part 3 (commencing with Section 23500), Division 14,~~
36 ~~Elections Code), so far as they may be applicable, shall govern all~~
37 ~~general Monterey Peninsula Water Management District~~
38 ~~elections, and the provisions of the Elections Code, so far as they~~
39 ~~may be applicable shall govern all special Monterey Peninsula~~

1 ~~Water Management District elections, except as in this law~~
2 ~~otherwise provided.~~

3 *SEC. 7. Section 202 of the Monterey Peninsula Water*
4 *Management District Law (Chapter 527 of the Statutes of 1977)*
5 *is amended to read:*

6 *Sec. 202. (a) The board shall consist of seven members*
7 *selected in accordance with this chapter section.*

8 *(b) The board shall consist of one elected representative from*
9 *each of the cities within the district (Carmel-by-the-Sea, Del Rey*
10 *Oaks, Monterey, Pacific Grove, Sand City, and Sea Side), and one*
11 *elected representative from the unincorporated area within the*
12 *district's boundary.*

13 *(c) The mayor of each city within the district shall appoint a*
14 *member to the board. The appointed board member shall be either*
15 *the mayor or a city council member of the appointing entity.*

16 *(d) For the unincorporated area, the board member shall be an*
17 *elected member of the county board of supervisors who represents*
18 *most of the unincorporated population within the district*
19 *boundary.*

20 *(e) Each member of the board shall serve at the pleasure of the*
21 *appointing power.*

22 *SEC. 8. Section 202.5 is added to the Monterey Peninsula*
23 *Water District Law (Chapter 527 of the Statutes of 1977), to read:*

24 *202.5. While serving on the board, each board member shall*
25 *exercise his or her independent judgment on behalf of the interests*
26 *of the district's residents, property owners, and the public as a*
27 *whole and not solely the interests of the appointing power. This*
28 *section does not require the abstention of any member on any*
29 *matter, nor does it create a right of action for any person.*

30 *SEC. 9. Section 203 of the Monterey Peninsula Water*
31 *Management District Law (Chapter 527 of the Statutes of 1977)*
32 *is repealed.*

33 ~~*Sec. 203. Five members shall be elected by the qualified*~~
34 ~~*electors in the district. One member shall be a member of the board*~~
35 ~~*of supervisors of the county residing in the district, appointed by*~~
36 ~~*the board of supervisors, serving at the pleasure of the board of*~~
37 ~~*supervisors, and serving ex officio. One member shall be the*~~
38 ~~*mayor, member of the governing body, or chief executive officer*~~
39 ~~*of a city which is a member unit who shall be appointed by those*~~
40 ~~*members of the city selection committee of the county*~~

1 ~~representing member units pursuant to the provisions of Article 11~~
2 ~~(commencing with Section 50270) of Chapter I of Part I of~~
3 ~~Division I of Title 5 of the Government Code, serving at the~~
4 ~~pleasure of the appointing power, and serving ex officio.~~

5 *SEC. 10. Section 204 of the Monterey Peninsula Water*
6 *Management District Law (Chapter 527 of the Statutes of 1977)*
7 *is repealed.*

8 ~~Sec. 204. Each elected member of the board shall be a voter~~
9 ~~of the district.~~

10 *SEC. 11. Section 205 of the Monterey Peninsula Water*
11 *Management District Law (Chapter 527 of the Statutes of 1977)*
12 *is repealed.*

13 ~~Sec. 205. The term of office of each elective member of the~~
14 ~~board shall be four years, provided, however that the first five~~
15 ~~elective members shall, by lot, determine that two directors shall~~
16 ~~serve for two years and three directors for four years. A vacancy~~
17 ~~in the office of elected member of the board shall be filled pursuant~~
18 ~~to Section 1780 of the Government Code. The qualification of~~
19 ~~voters and the election of the elected members of the board shall~~
20 ~~be in accordance with the provisions of the Uniform District~~
21 ~~Election Law (Part 3 (commencing with Section 23500), Division~~
22 ~~14, Elections Code) except as otherwise provided in this part.~~

23 *SEC. 12. Chapter 2 (commencing with Section 221) of Part 3*
24 *of the Monterey Peninsula Water Management District Law*
25 *(Chapter 527 of the Statutes of 1977) is repealed.*

26
27 ~~CHAPTER 2. ALTERNATE METHOD OF CONDUCTING ELECTIONS~~
28 ~~OF ELECTED MEMBERS OF THE BOARD~~
29

30 ~~Sec. 221. The district may, by resolution adopted by a~~
31 ~~majority of the members of the board at least 140 days before the~~
32 ~~next general district election, be divided into as many divisions as~~
33 ~~there are elected members of the board. All directors thereafter~~
34 ~~elected shall be residents of their division and shall be registered~~
35 ~~voters at the time of their election and during their term of office.~~

36 ~~Sec. 222. After the adoption of the resolution by the board to~~
37 ~~establish resident voting divisions in the district, the board of~~
38 ~~directors shall establish the boundaries of the divisions on the basis~~
39 ~~of equalizing as nearly as practicable the number of registered~~
40 ~~voters in each division. The board shall from time to time~~

1 ~~reestablish such boundaries on such basis. The creation or~~
2 ~~modification of divisions shall not affect the term of any director~~
3 ~~until his term shall expire.~~

4 ~~Sec. 223. At the first election of directors following the~~
5 ~~adoption of the resolution by the board establishing resident voting~~
6 ~~divisions, the number of directors to be elected shall correspond~~
7 ~~with the number of directors whose terms expire. The directors~~
8 ~~whose terms have not expired shall serve their unexpired terms~~
9 ~~under the qualifications to hold office that existed prior to the~~
10 ~~adoption of the resolution establishing resident voting divisions.~~
11 ~~In such first election and in all subsequent elections, the form of~~
12 ~~the ballot and the conduct of the election shall be governed by the~~
13 ~~Uniform District Election Law for resident voting districts.~~

14 ~~Sec. 224. Any actions taken by the board and any proceedings~~
15 ~~taken by the district in connection therewith, prior to the adoption~~
16 ~~of the resolution changing the method of voting, shall not be~~
17 ~~affected by such resolution.~~

18 *SEC. 13. Section 251 of the Monterey Peninsula Water*
19 *Management District Law (Chapter 527 of the Statutes of 1977)*
20 *is amended to read:*

21 *Sec. 251. The board shall hold its first initial meeting of*
22 *appointed members as soon as possible after the election of the first*
23 *members of the board the operative date of this act. The board shall*
24 *elect one of its members—chairman chairperson, and shall*
25 *thereupon provide for the time and place of holding its meetings*
26 *and the manner in which special meetings may be called upon*
27 *adequate notice to the public. At the first meeting in the month of*
28 *January of each year, or at the next meeting following the creation*
29 *of a vacancy in the office of chairman chairperson, the board shall*
30 *choose one of its members—chairman chairperson and one of its*
31 *members vice chairman chairperson.*

32 *SEC. 14. Section 252 of the Monterey Peninsula Water*
33 *Management District Law (Chapter 527 of the Statutes of 1977)*
34 *is amended to read:*

35 *Sec. 252. The chairman chairperson of the board shall preside*
36 *at all meetings of the board. In the case of the absence or inability*
37 *to act of the chairperson, the vice chairperson shall preside. In the*
38 *case of the absence or inability to act of the chairman chairperson*
39 *or and vice chairman chairperson, the members present shall by*
40 *a resolution entered in the records of the board, select one of their*

number to act as temporary ~~chairman~~ chairperson. Any member of the board may administer oaths when necessary in the performance of his or her official duties.

SEC. 15. Section 253 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 253. (a) A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall act only by ordinance, resolution, or motion. On all ordinances, the roll shall be called and the ayes and noes recorded in the records of the board. Resolutions and motions may be adopted by voice vote, but on demand of any member the roll shall be called. Except as otherwise provided in this act, no ordinance, resolution, or motion shall be passed nor become effective without the affirmative vote of the majority of the members of the board.

(b) *Subject to subdivision (c), each member has one vote.*

(c) (1) *Upon the call and request of any board member present and able to vote, a weighted voting formula shall apply for any vote to be taken by the board, with each member having one or more votes based upon the population of the city or unincorporated area within the district boundary as follows:*

<i>Population</i>	<i>No. of votes</i>
<i>0 to 9,999</i>	<i>1</i>
<i>10,000 to 24,999</i>	<i>2</i>
<i>25,000 to 49,999</i>	<i>3</i>
<i>50,000 to 74,999</i>	<i>4</i>
<i>75,000 to 99,999</i>	<i>5</i>
<i>100,000 and above</i>	<i>6</i>

(2) *For the purpose of determining the population within a city or unincorporated area within the district, the more recent federal census or Department of Finance population estimate shall be used.*

SEC. 16. Section 431 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

~~431. Subject to the provisions of Article 2 (commencing with Section 471) of Chapter 8 of this part, the~~ (a) The board, by

~~resolutions thereof adopted from time to time~~ *resolution*, may establish improvement zones within the district without reference to the boundaries of other zones, setting forth in ~~such resolutions~~ *that resolution* descriptions thereof by metes and bounds and ~~entitling identifying each of such zones~~ *zone* by a zone number, and institute zone projects for the specific benefit of ~~such~~ *those* zones. The board may, by resolution amend the boundaries by annexing property to or by withdrawing property from ~~such~~ *these* zones or may divide existing zones into two or more zones or may superimpose a new or amended zone on zones already in existence, setting forth in ~~such resolutions~~ *that resolution* descriptions of the amended, divided, or superimposed zones by metes and bounds and ~~entitling identifying each of such zones~~ *zone* by a zone number. Any territory in the district may be included within one or more improvement zones.

~~After~~

~~(b) After the board approves a project has been approved at an election held pursuant to Section 474 of this act, the boundaries of the zone or zones approving the project shall not be changed, except as otherwise provided in this law.~~

SEC. 17. Article 2 (commencing with Section 471) of Chapter 8 Part 4 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.

~~Article 2.—Work or Projects Elections~~

~~Sec. 471.—If the board determines to proceed with a work or project in a zone or participating zones after the conclusion of the public hearing, it shall call an election to be held in the zone or participating zones on the question of proceeding with the work or project. Such election shall be called by the adoption of a notice of election, which shall state the date of the election, the proposition to be voted upon, the hours the polls will be open, and shall designate the election precincts, the polling place within each precinct and the names of the election officers consisting of one inspector, one judge, and one clerk for each precinct. Only registered voters within the zone or participating zones shall be entitled to vote at such election.~~

~~Sec. 472.—The notice of election shall be published or posted pursuant to the same procedure and time limits prescribed for~~

~~giving notice of the public hearing pursuant to Section 453. No other notice of such election need be given nor need sample ballots or polling place cards be issued.~~

~~Sec. 473. (a) The ballot for the election shall contain the following ballot measure:~~

Shall the proposed work or project for Zones No. _____ in the Monterey Peninsula Water Management District be approved?	Yes <input type="checkbox"/> No <input type="checkbox"/>
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~~Shall the proposed work or project for Zones No. _____ in the Monterey Peninsula Water Management District be approved?~~

~~(b) The ballot measure may further include the question of bond financing as may be required pursuant to Section 476.~~

~~Sec. 474. The election shall be conducted as one election comprising all of the zones affected, rather than separately in each zone, and precincts established may comprise territory in more than one zone. If a majority of the voters voting upon the proposition are in favor of the work or project, the board may proceed with the project. Except when a majority of the voters voting are for the work or project, the board shall not proceed with the work or project unless it is later approved by the voters at a subsequent election called and conducted pursuant to this chapter. Such subsequent elections may be called by the board without conducting additional public hearings if the subsequent election is conducted not to exceed one year after the initial election at which the project was not approved by the majority of the voters.~~

~~Sec. 475. The election may be consolidated with any district, city, or county election or statewide primary or general election under the provisions of the Elections Code relating to the consolidation of elections and, in case of consolidation, the notice shall be as provided in the Elections Code.~~

~~Sec. 476. (a) If the board that bonded indebtedness should be incurred to pay for any portion of the cost of a proposed work or project, the election required under this chapter shall be fully consolidated with the bond election without complying with the procedures for consolidation of elections set forth in the Elections~~

Code, and the procedures for calling and conducting the bond election shall be applicable to both elections, and both propositions shall be included on the ballot for that election. In the case of a consolidated election, the resolution required under Section 603 shall constitute the notice of election required under this chapter and shall contain the information required under this chapter. If a majority of the voters voting in all of the zones participating in the election, considering the zones as a single unit rather than separately, vote in favor of approving the project, but the bond election fails, the board may proceed to pay the costs of the project out of the taxes or assessments levied under this act or from other sources excluding bonds.

~~(b) The board may consolidate in a single ballot measure both the project approval required pursuant to Section 473 and the bond approval required by Article 1 (commencing with Section 601) of Chapter 3 of Part 5.~~

SEC. 18. The heading of Article 6 (commencing with Section 671) of Chapter 3 of Part 5 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Article 6. ~~Revenue Bonds Benefit Assessments~~

SEC. 19. Section 671 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is repealed.

~~Sec. 671. If the board by resolution determines that a bonded indebtedness to pay for the acquisition or construction of any works for any purposes of the district, or zone or participating zones thereof, or for refunding any outstanding bonds should be incurred, and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district is authorized and shall have the power to define such works as an "enterprise" and to issue revenue bonds all in the manner and as provided in the Revenue Bond Law of 1941, Chapter 6 (commencing with Section 54300) of Part I of Division 2 of Title 5 of the Government Code, and for such purpose the district shall be considered a "local agency" as defined by Section 54307 of such code. Any election for the issuance of revenue bonds for a zone or participating zones of the district shall be limited to the~~

1 ~~area of such zone or participating zones, and the proceeds from the~~
2 ~~sale of any such revenue bonds shall be expended only for the~~
3 ~~benefit of such zone or participating zones.~~

4 *SEC. 20. Section 673 of the Monterey Peninsula Water*
5 *Management District Law (Chapter 527 of the Statutes of 1977)*
6 *is repealed.*

7 ~~Sec. 673. All revenue bonds issued by the district may be~~
8 ~~certified as legal investments pursuant to the Districts Securities~~
9 ~~Law (Chapter 1 (commencing with Section 20000) of Division 10~~
10 ~~of the Water Code).~~

11 *SEC. 21. Chapter 3.5 (commencing with Section 685) is*
12 *added to Part 5 of the Monterey Peninsula Water Management*
13 *District Law (Chapter 527 of the Statutes of 1977), to read:*

14
15 *Chapter 3.5. Revenue Bonds*

16
17 685. (a) (1) *Subject to subdivision (b), the board, by*
18 *ordinance and majority vote, may issue revenue bonds pursuant to*
19 *this chapter to pay the costs of acquiring or constructing facilities*
20 *for the production, storage, transmission, or treatment of water.*

21 (2) *The board need not conduct an election or otherwise secure*
22 *the approval of the voters to carry out this chapter.*

23 (b) *No board member may vote in favor of the issuance of*
24 *revenue bonds pursuant to this chapter in the absence of the*
25 *adoption, by majority vote, of an ordinance by the appointing*
26 *power of that board member that expressly authorizes that board*
27 *member to do so.*

28 (c) *The ordinance described in subdivision (a) shall describe in*
29 *general terms the project or projects to be financed by the revenue*
30 *bonds, the maximum amount of bonds proposed to be issued, and*
31 *the anticipated sources of revenue to redeem the bonds.*

32 (d) *The board may issue revenue bonds pursuant to this chapter*
33 *to generate funds to pay for the acquisition and construction of the*
34 *facilities described in subdivision (a) and related costs, including*
35 *engineering, inspection, legal and fiscal agents' fee, costs of the*
36 *issuance and sale of the bonds, working capital, reserve fund, and*
37 *bond interest estimated to accrue during the construction period*
38 *and for a period not to exceed 12 months after completion of*
39 *construction.*

1 (e) *The proceeds of the revenue bonds may be used only for the*
2 *project provided for in the indenture pursuant to which the revenue*
3 *bonds are issued.*

4 (f) *The revenue bonds shall be secured by a pledge of and lien*
5 *upon the revenues of the project described in the indenture*
6 *authorizing the issuance of the bonds. The revenues of the project*
7 *include revenues from improvements or additions to, or extensions*
8 *of the project. The revenue bonds may also be secured by*
9 *additional revenues, including existing funds of the district, and*
10 *other sources, to the extent set forth in the indenture.*

11 (g) *If any of the revenue bonds are outstanding and unpaid, the*
12 *revenues and interest thereon shall not be used for any purpose not*
13 *authorized by the indenture, unless the bondholders authorize the*
14 *use for that purpose pursuant to the provisions of the indenture.*

15 (h) *Revenue bonds issued pursuant to this chapter, and*
16 *contracts or obligations entered into to carry out the purposes for*
17 *which bonds are issued that are payable in whole or part from the*
18 *proceeds of the bonds, shall not constitute a debt, liability, or*
19 *obligation of any of the public agencies who are parties to the*
20 *agreement creating that entity.*

21 (i) *All revenue bonds issued pursuant to this chapter shall*
22 *include a recital on their face that neither the payment of the*
23 *principal or any part thereof, nor any interest thereon, constitutes*
24 *a debt, liability, or obligation of any of the district.*

25 (j) *The voters of the district may not petition for referendum*
26 *with regard to the issuance of revenue bonds pursuant to this*
27 *chapter.*

28 SEC. 22. *No reimbursement is required by this act pursuant*
29 *to Section 6 of Article XIII B of the California Constitution*
30 *because a local agency or school district has the authority to levy*
31 *service charges, fees, or assessments sufficient to pay for the*
32 *program or level of service mandated by this act, within the*
33 *meaning of Section 17556 of the Government Code.*

34 SEC. 23. *This act shall become operative on the date on which*
35 *the Secretary of State notifies the Monterey Peninsula Water*
36 *Management District that the United States Attorney General has*
37 *precleared Section 202 of the Monterey Peninsula Water*
38 *Management District Law, as amended by this act, pursuant to*
39 *Section 1973c of Title 42 of the United States Code.*

1 ~~Management District Law (Chapter 527 of the Statutes of 1977)~~
2 ~~is amended to read:~~
3 ~~Sec. 221. The district may, by resolution adopted by a~~
4 ~~majority of the members of the board at least 135 days before the~~
5 ~~next general district election, be divided into as many divisions as~~
6 ~~there are elected members of the board. All directors thereafter~~
7 ~~elected shall be residents of their division and shall be registered~~
8 ~~voters at the time of their election and during their term of office.~~

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